



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Mines, Minerals, and Energy
Virginia Administrative Code (VAC) citation	4 VAC 25-150
Regulation title	Virginia Gas and Oil Regulation
Action title	Amendments regarding the regulation of gas and oil
Date this document prepared	May 1, 2008

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

As a result of periodic review, the Department of Mines, Minerals and Energy is amending 4VAC25-150, Virginia Gas & Oil Regulation. Sections of 4VAC25-150 will be amended to correct technical areas for accuracy, improve worker safety, and provide clarity. These amendments will aid the gas and oil industry and the Gas & Oil Board in the approval and regulation of gas and oil permits.

Amending parts of Section 4VAC25-150-150 will reduce workload and increase efficiency for applicants by providing flexibility and economy to the permit process. Section 4VAC25-150-90 will be updated to include symbols that are consistent with current industry usage and available CAD technology.

Amendments to sections 4VAC25-150-80, 4VAC25-150-260, 4VAC25-150-300, 4VAC25-150-380, and 4VAC25-150-630 will protect the safety and health of oil and gas industry employees.

An amendment to 4VAC25-150-90 is being made to bring consistency to data submission requirements for the Division of Gas & Oil. The use of latitude and longitude and the Virginia Coordinate System of 1927 have been replaced by the Virginia Coordinate System of 1983 in other Division of Gas & Oil regulations. Current industry practice is to use the more modern 1983 coordinate system for describing the locations of wells and core holes. Applicants for permits under this chapter must currently convert their coordinates back to the 1927 system, as required by the regulation, in order to submit them to the

Department of Mines, Minerals and Energy’s Division of Gas & Oil. The amendment will allow applicants to use the updated 1983 coordinate system.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The Department of Mines, Minerals and Energy (DMME) has authority to promulgate this regulation under authority found in § 45.1-161.3, Powers of the Department, § 45.1-361.27, Duties, responsibilities and authority of the Director, and §.

- Section 45.1-161.3 of the Code of Virginia empowers DMME, with the approval of the Director, to promulgate regulations necessary or incidental to the performance of duties or execution of powers under Title 45.1 of the Code of Virginia.
- Section 45.1-361.27 of the Code of Virginia empowers the Director to promulgate and enforce rules, regulations and orders necessary to ensure the safe and efficient development and production of gas and oil resources located in the Commonwealth

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

The Department of Mines, Minerals and Energy has determined the proposed amendments to sections of 4VAC25-150 are necessary to protect the health, welfare, and safety of citizens. By clarifying language, improving consistency with state law and other regulations, reducing workload and increasing efficiency for applicants, the amendments will improve the regulation both for the agency and its customers.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

The Department of Mines, Minerals and Energy is proposing amendments to sections of 4VAC25-150, Gas and Oil Regulations as described in the following table.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
4VAC25-150-10	N/A	Section defines terms used in the regulation	Multiple clarifications and additions to definitions; <i>clarification of terms used</i>
4VAC25-150-60 A.	N/A	A. Where the last day fixed for (i) <u>submitting a request for a hearing, holding a hearing or issuing a decision in an enforcement action under Article 3 (4VAC25-150-170 et seq.) of this part, (ii) submitting a monthly or annual report under Article 4 (4VAC25-150-210 et seq.) of this part, (iii) submitting a report of commencement of activity under 4VAC25-150-230, (iv) submitting a drilling report, a completion report or other report under 4VAC25-150-360, or (v) submitting a plugging affidavit under 4VAC25-150-460</u> falls on a Saturday, Sunday, or any day on which the Division of Gas and Oil office is closed as authorized by the Code of Virginia or the Governor, the required action may be done on the next day that the office is open.	Delete "for a hearing, holding a hearing or issuing a decision in an enforcement action under Article 3 (4VAC25-150-170 et seq.) of this part, (ii) submitting a monthly or annual report under Article 4 (4VAC25-150-210 et seq.) of this part, (iii) submitting a report of commencement of activity under 4VAC25-150-230, (iv) submitting a drilling report, a completion report or other report under 4VAC25-150-360, or (v) submitting a plugging affidavit under 4VAC25-150-460" and add "or any other required report"; <i>clarification that regulation applies to any document due to the agency</i>
4VAC25-150-80 C.	N/A	Affected parties of permit revision are not currently addressed	Between Section 3 and 4, add requirement to provide notice to affected parties under a permit revision; <i>clarification</i>
4VAC25-150-80 C.8.	N/A	8. The location where the Spill Prevention Control and Countermeasure (SPCC) plan is available, if one is required;	Clarify the SPCC requirement ; <i>clarification</i>
4VAC25-150-90 D.1.	N/A	1. The proposed or actual surface elevation of the subject well or corehole shall be shown on the plat, within an accuracy of one vertical foot. The surface elevation shall be tied to either a government benchmark or other point of proven elevation by differential or aerial survey or by <u>trigonometric leveling</u> . The location of the government benchmark or the point of proven elevation and the method used to determine the surface elevation of the subject well or corehole shall be noted and described on the plat.	After "trigonometric leveling", add "or global positioning satellite (GPS) survey"; <i>technical correction</i>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
4VAC25-150-90 D.2.	N/A	2. The proposed or actual horizontal location of the subject well or corehole determined by survey shall be shown on the plat. The proposed or actual well or corehole location shall be shown in accordance with the Virginia Coordinate System of 1927, as defined in Chapter 17 (§ 55-287 et seq.) of Title 55 of the Code of Virginia, also known as the State Plane Coordinate System.	Change the requirements from the Virginia Coordinate System of 1927 to the Virginia Coordinate System of 1983; <i>accuracy of technology used</i>
4VAC25-150-90 D.4.	N/A	Gas and Oil well symbols for plats appear in an outdated format	Update symbols to current industry standard CAD template; <i>technical correction</i>
4VAC25-150-110 A.1.	N/A	1. Standard permit supplements. A permittee shall be allowed to submit a permit supplement when work being performed <u>either</u> : a. Does not change the disturbance area as described in the original permit; or b. Involves activities previously permitted.	Delete "either"; <i>clarification</i>
4VAC25-150-110 A.1.a.	N/A	a. Does not change the disturbance area as described in the original permit; or b. Involves activities previously permitted.	Change "or" to "and"; <i>clarification</i>
4VAC25-150-110 A.2.	N/A	2. Emergency permit supplements. If a change must be implemented immediately due to actual or threatened imminent danger to the public safety or to the environment, the permittee shall:	Clarify between normal and emergency supplements; <i>clarification</i>
4VAC25-150-110 B.4.	N/A	4. Permit modification. The permittee shall submit a written application for a permit modification on a form prescribed by the director. The permittee may not undertake the proposed work until the permit modification has been issued. The application shall include, but not be limited to:	Add, "As appropriate," before "The application shall include, but not be limited to."; <i>clarification</i>
4VAC25-150-110 B.4.i.	N/A	i. The location where the Spill Prevention Control and Countermeasure (SPCC) plan is available, if one has been developed for the site of the proposed operations;	Clarify the SPCC requirement; <i>clarification</i>
4VAC25-150-110 B.4.k.	N/A	k. The information, as appropriate, required in 4VAC25-150-500 , 4VAC25-150-560 , or 4VAC25-150-670 .	add, "4 VAC 25-150-720" to list of regulations that contain information required; <i>accuracy</i>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
4VAC25-150-120	N/A	When and under what conditions transfers are required is not currently defined	Add clarification as to when and under what conditions transfers are required; <i>clarification</i>
4VAC25-150-120 C.	N/A	C. Standards for approval. The director shall <u>not</u> approve the transfer of permit rights <u>unless</u> the proposed new permittee:	strike "not", Strike "unless" and add "when" in it's place; <i>clarification</i>
4VAC25-150-130	N/A	Requirements for publication when unknown parties are subject to notification for permit modifications are not currently defined	Add section "C" to detail requirements for publication when unknown parties are subject to notification for permit modifications; <i>modification</i>
4VAC25-150-150 A.1.	N/A	1. The hearing shall be an informal fact finding <u>hearing</u> in accordance with the Administrative Process Act, §9-6.14:11 of the Code of Virginia.	Strike second instance of the word "hearing" and add "conference" in it's place; <i>accuracy</i>
4VAC25-150-150 B.	N/A	B. The director shall, as soon after the hearing as practicable, issue his decision in writing and hand deliver or send the decision by certified mail to all parties to the hearing. <u>The director shall mail the decision, or a summary of the decision, to all other persons given notice of the hearing.</u> The decision shall include:	Add "On request" before "The director shall mail the decision, or a summary of the decision, to all other persons given notice of the hearing."; strike "all", insert "any"; <i>clarification</i>
4VAC25-150-160 A.	N/A	A. Permits, permit modifications and transfer of permit rights shall be granted in writing by the director.	After, "permit modifications ", insert "permit renewals,"; <i>clarification</i>
4VAC25-150-180 F.	N/A	F. A permittee issued a notice of violation may request, in writing to the director, an informal fact-finding <u>hearing</u> to review the issuance of the notice. This written request <u>should</u> be made within 10 days of receipt of the notice. The permittee may request, in writing to the director, an expedited hearing.	Strike first instance of the word "hearing", and add "conference"; strike "should" insert "shall"; <i>clarification</i>
4VAC25-150-180 H.	N/A	F. A permittee issued a notice of violation may request, in writing to the director, an informal fact-finding <u>hearing</u> to review the issuance of the notice. This written request should be made within 10 days of receipt of the notice. The permittee may request, in writing to the director, an expedited hearing.	Strike first instance of the word "hearing", and add "conference"; <i>clarification</i>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
4VAC25-150-210 A.	N/A	A. Each producer shall submit a monthly report, on a form prescribed by the director or in a format approved by the director, to the division no later than 45 days after the last day of each month.	Delete "45" and insert "60"; <i>modification</i>
4VAC25-150-220 B.	N/A	A certification that bonds on file with the director have not changed is not currently required.	Add section "6" to include a certification that bonds on file with the director have not changed; <i>modification</i>
4VAC25-150-230 B.	N/A	B. A permittee shall notify the division at least two working days prior to commencing ground-disturbing activity, drilling a well or corehole, completing or recompleting a well or plugging a well or corehole. The permittee shall notify the division, either orally or in writing, of the permit number and the date and time that the work is scheduled to commence.	Add exploration of notice period and requirements for re-notification; add requirements for re-notification of commencement of pipeline operations when pipeline is permitted with the well; strike "permit number" insert "operation name"; <i>modification</i>
4VAC25-150-230 C.	N/A	C. For dry holes and in emergency situations, the operator may notify the division within two working days of commencing plugging activities.	Strike "may", insert "shall"; after "the operator may notify the division ", insert "orally or in writing"; clarify emergency situation; <i>clarification</i>
4VAC25-150-260 C.1.b.	N/A	b. During construction <u>of the project</u> , <u>topsoil</u> sufficient to provide a suitable growth medium for permanent stabilization with vegetation shall be <u>segregated and stockpiled</u> . <u>Soil stockpiles shall be stabilized</u> in accordance with the standards of subdivisions C 2 and C 3 of this section <u>to prevent erosion and sedimentation</u> .	Strike "of the project, topsoil", insert "soil"; strike "segregated and stockpiled. Soil stockpiles shall be stabilized " and insert "used to stabilize the site"; strike "to prevent erosion and sedimentation"; <i>modification</i>
4VAC25-150-260 D.2.	N/A	2. Each pipeline abandoned in place shall be disconnected from all sources of natural gas or produced fluids and purged.	After "purged", insert, "and removed. The disconnected pipeline may be left in place if the operator obtains a written agreement with the current surface owner of record. The operator shall provide documentation of the methods used to purge and abandon the pipeline."; <i>clarification</i>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
4VAC25-150-260 D.5.	N/A	5. If the land disturbed during gas, oil or geophysical operations will not be reclaimed with permanent vegetative cover as provided for in subsection C of this section, the permittee or applicant shall, <u>in the operations plan</u> , request a variance to these reclamation standards and propose alternate reclamation standards and an alternate schedule for bond release.	Strike "in the operations plan,"; <i>clarification</i>
4VAC25-150-280 B.3.	N/A	3. Prior to drilling any borehole into a coal seam in which active mining is being conducted within 500 feet of where the borehole will penetrate the seam, the permittee shall conduct an inclination survey to determine whether the deviation of the bore hole exceeds one degree from true vertical. If the borehole is found to exceed one degree from vertical, then the permittee shall:	Define "active mining" consistent with Division of Mines' new definition of active mining; <i>clarification</i>
4VAC25-150-300 A.1.	N/A	1. Pits are to be temporary in nature and are to be reclaimed when the operations using the pit are complete.	Add "All pits shall be closed within 60 days of completion of operations, unless a variance is granted by the field inspector."; <i>clarification</i>
4VAC25-150-300 B.	N/A	B. Technical requirements. 1. Pits shall be constructed of sufficient size and shape to contain all fluids and maintain a two-foot freeboard. 2. Pits shall be lined in accordance with the requirements for liners in subdivision A 3 of this section. If solids are not to be disposed of in the pit, the permittee may request a variance to the liner specifications.	Move section B1 to new A4; strike current section B; label current section C as section B; <i>modification</i>
4VAC25-150-310 C.	N/A	C. Every permanent tank or battery of tanks shall be surrounded by a containment dike or firewall with a capacity of 1½ times the volume of the single tank or largest tank in a battery of tanks.	Add language to accommodate double wall tanks and multiple tanks plumbed as one unit; <i>modification</i>
4VAC25-150-340 B.1.	N/A	Not changing requirements; only rearranging order of requirements for clarification	Move section "c" before "If, after a diligent search, a groundwater source"; <i>accuracy</i>
4VAC25-150-340 B.2.	4VAC25-150-340 B.3.	2. After the water-protection string is set, permittees may use waters that do not meet the standards of subdivision B 1 of this section.	Insert as new B2 "Drilling water analysis shall be taken within one year proceeding the drilling application."; old B2 becomes 3; <i>clarification</i>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
4VAC25-150-360 A.	N/A	A. Each permittee conducting drilling shall file, on a form prescribed by the director, a drilling report within 30 days after a well reaches total depth.	Change 30 days to 60 days; <i>modification</i>
4VAC25-150-360 B.	N/A	B. Each permittee drilling a well shall file, on a form prescribed by the director, a completion report within 30 days after the well is completed.	Change 30 days to 60 days; <i>modification</i>
4VAC25-150-380	N/A	Current title of Section is "Accidents"	Change "Accidents" in title to "Incidents"; <i>clarification</i>
4VAC25-150-380 A.	N/A	<p>Current title of section is "Accidents, spills and unpermitted discharges."</p> <p>A. Accidents. A permittee shall, by the quickest available means, notify the director in the event of any fire, blowout, pit failure, hydrogen sulfide release, unanticipated loss of drilling fluids, or other accident resulting in an actual or potential imminent danger to the environment, <u>public safety or welfare</u>. The permittee shall take immediate action to abate the actual or potential danger. The permittee shall submit a written report within seven days of the incident containing:</p> <ol style="list-style-type: none"> 1. A description of the incident and its cause; 2. The date, time and duration of the incident; 3. A description of the steps that have been taken to date; and 4. A description of the steps planned to be taken to prevent a recurrence of the incident. 	Change "accidents" to "incidents"; move first paragraph one line below title header; after "public safety or welfare", add "or results in serious personal injury"; add section 5 to read "other agencies notified"; <i>clarification</i>
4VAC25-150-380 B.	N/A	Threshold amount for reporting spills not currently defined.	Define and add a threshold reporting amount for spills, in accordance with EPA requirements; <i>clarification</i>
4VAC25-150-390	N/A	A. If a well is shut-in or otherwise not produced for a period of 12 consecutive months, the permittee shall measure the shut-in pressure on the production string or strings. If the well is producing on the backside or otherwise through the casing, the permittee shall measure the shut-in pressure on the annular space.	Strengthen requirements to control shut-in wells by reducing the length of time before pressures must be monitored, defining the frequency and reporting requirements for monitoring, and defining the length of time the well can remain shut in without a requirement for plugging; <i>clarification</i>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
4VAC25-150-420 D.3.	N/A	3. Fluids shall be applied in a manner which will not cause erosion or runoff. The permittee shall take into account site conditions such as slope, soils and vegetation when determining the rate and volume of land application on each site. <u>As part of the application narrative, the permittee shall show the calculations used to determine the maximum rate of application for each site.</u>	Strike, "As part of the application narrative, the permittee shall show the calculations used to determine the maximum rate of application for each site."; <i>modification</i>
4VAC25-150-420 E.2.	N/A	2. Each permittee using an off-site facility for disposal of fluids shall use a waste-tracking system to document the movement of fluids off of a permitted site to their final disposition. Records compiled by this system shall be available for inspection on request.	Add a record retention limit, utilizing EPA's record retention requirements as a guide; <i>modification</i>
4VAC25-150-460 B.	N/A	B. A permittee may apply for a variance from the director to use alternate permanent markers. Such alternate markers shall provide sufficient information for locating the abandoned well or corehole. Provisions shall also be made to provide for the physical detection of the abandoned well or corehole from the surface by magnetic or other means.	Add allowance for the burial and remote sensing of a well head; <i>technical correction</i>
4VAC25-150-490	N/A	Current title of section is "Applicability"	Strike "applicability", insert "Class II Injection Wells"; <i>technical correction</i>
4VAC25-150-490 A.	N/A	A. Part II of this chapter sets forth requirements unique to conventional gas and oil wells and wells classified as Class II injection wells by the United States, Environmental Protection Agency under 40 CFR Part 146, Section 146.5.	Strike, "Part II of"; strike "chapter", insert "section"; <i>accuracy</i>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
4VAC25-150-490 B.	N/A	B. Permittees must comply with the standards of general applicability in Part I of this chapter and with the standards for conventional gas and oil and Class II injection wells in this part, except that whenever the Environmental Protection Agency imposes a requirement under the Underground Injection Control (UIC) Program, 40 CFR Part 146, Sections 146.3, 146.4, 146.5, 146.6, 146.7, 146.8, 146.22 and 146.23 that governs an activity also governed by this chapter, the Environmental Protection Agency requirement shall control <u>and become part of the permit issued under this chapter.</u>	Strike, "and become part of the permit issued under this chapter"; <i>clarification</i>
4VAC25-150-500	N/A	Current title of section is "Application For A Permit"	After "Application For A Permit", add, "Conventional Well or Class II Injection Well" to title; <i>clarification</i>
4VAC25-150-500 A.	N/A	Application for a permit or permit modification are not currently required to submit an explanation of the procedures to be followed to protect the safety of persons working in an underground coal mine for any coalbed methane gas well to be drilled within 200 feet of or into any area of an active underground coal mine	Add new 4VAC25-150-560A7 below as new section A5; <i>modification</i>
4VAC25-150-510	N/A	Current section title is "Plats"	After "Plats" add ", Conventional Well or Class II Injection Well" to title; <i>clarification</i>
4VAC25-150-520	N/A	Current section title is "Setback Restrictions"	After "Setback Restrictions", add add ", Conventional Well or Class II Injection Well" to title; <i>clarification</i>
4VAC25-150-530 E.1.	N/A	1. When a well is drilled through a void, the hole shall be drilled at least 30 feet below the void, the annular space shall be cemented from the base of the casing up to the void and to the surface from the top of the void, or it shall be cemented at least 50 feet into the next higher string or strings of casing that are cemented to the surface and be verified by a cement top log.	After "casing up to the void", add "every reasonable attempt shall be made to fill the annular space from the top of the void to the surface"; strike "and to the surface from the top of the void"; <i>clarification</i>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
4VAC25-150-550	N/A	<p>Current title of section is "Applicability"</p> <p>Part III of this chapter sets forth requirements unique to coalbed methane gas wells. Permittees must comply with the standards of general applicability in Part I of this chapter and with the standards for coalbed methane gas wells in this part.</p>	<p>Strike "applicability", insert "Coal Bed Methane Operations"; strike "Part III of this chapter", insert "This section"; <i>clarification</i></p>
4VAC25-150-560	N/A	<p>Current title of section is "Application for a permit"</p>	<p>After "Application for a permit", insert "Coal Bed Methane Operations"; <i>clarification</i></p>
4VAC25-150-560 A.7.	N/A	<p>7. An explanation of the procedures to be followed to protect the safety of persons working in an underground coal mine for any coalbed methane gas well to be drilled within 200 feet of or into any <u>area of an active underground coal mine</u>; which shall, at a minimum, require that notice of such drilling be given by the permittee to the mine operator and the Chief at least two working days prior to drilling within 200 feet of or into the mine; and</p>	<p>Strike, "area of an active underground coal mine", insert "active mine"; <i>clarification</i></p>
4VAC25-150-590	N/A	<p>Current title of section is "Plats"</p>	<p>After "Plats", insert "Coal Bed Methane Wells"; <i>clarification</i></p>
4VAC25-150-590 A.8.	N/A	<p>8. Any inhabited building, highway, railroad, stream, surface mine or mine opening within 500 feet of the proposed well.</p>	<p>Insert "permitted" before "mine opening"; <i>clarification</i></p>
4VAC25-150-600	N/A	<p>Current title of section is "Setback restrictions"</p>	<p>After "Setback restrictions", insert "Coal Bed Methane Wells"; <i>clarification</i></p>
4VAC25-150-610 A.1.	N/A	<p>1. Except as provided in subdivision A 5 of this section, the permittee shall set a water-protection string set to a point at least 300 feet below the surface or 50 feet below the <u>lowest</u> groundwater horizon, whichever is deeper, circulated and cemented to the surface. If cement does not return to the surface, every reasonable effort shall be made to fill the annular space by introducing cement from the surface.</p>	<p>Strike "lowest", insert "deepest known"; modification</p>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
4VAC25-150-610 E.1.	N/A	1. When a well is drilled through a void, the hole shall be drilled at least 30 feet below the void. The annular space shall be cemented from the base of the <u>casing up to the void, and to the surface from the top of the void</u> ; or it shall be cemented at least 50 feet into the next higher string or strings of casing that are cemented to the surface, and shall be verified by a cement top log.	After "casing up to the void", add "every reasonable attempt shall be made to fill the annular space from the top of the void to the surface"; strike "and to the surface from the top of the void"; <i>clarification</i>
4VAC25-150-620	N/A	Wellhead equipment and facilities installed on any gob well or on any coalbed methane gas well subject to the requirements of §§ 45.1-161.121 and 45.1-161.292 of the Code of Virginia addressing mining near or through a well shall include, but are not limited to, flame arrestors, back-pressure systems, pressure-relief systems, vent systems and fire-fighting equipment. The director may require additional safety equipment to be installed on a case-by-case basis.	Add language to distinguish treatments in active mines from wells in abandoned mines; <i>clarification</i>
4VAC25-150-630	N/A	Current section title is "Report of produced waters"	After "Report of produced waters", insert "Coal Bed Methane Wells"; <i>clarification</i>
4VAC25-150-630	N/A	All coalbed methane gas well operators are required to submit monthly reports of total produced waters withdrawn from coalbed methane gas wells, in barrels, on a well-by-well basis, with the monthly report submitted under 4VAC25-150-210 of this chapter. The report shall show monthly produced water withdrawals and cumulative produced water withdrawals.	Add a record retention limit, utilizing EPA's record retention requirements as a guide; <i>clarification</i>
4VAC25-150-650	N/A	Section title is "Abandonment through conversion to a vertical ventilation hole". A permittee wishing to abandon a coalbed methane gas well as a vertical ventilation hole shall submit an application for a permit modification which includes approval from the chief of the Division of Mines.	Clarify the process for conversion; <i>clarification</i>
4VAC25-150-660	N/A	Current section title is "Applicability"	After "Applicability", insert "Ground Disturbing Geophysical Activity"; clarify the regulation as it pertains to core holes; <i>clarification</i>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
4VAC25-150-670	N/A	Current section title is "Application for a permit"	After "Application for a permit", Insert "Geophysical Activity or Core Holes"; <i>clarification</i>
4VAC25-150-670 B.	N/A	Application for a permit or permit modification are not currently required to submit an explanation of the procedures to be followed to protect the safety of persons working in an underground coal mine for any coalbed methane gas well to be drilled within 200 feet of or into any area of an active underground coal mine.	Add new 4VAC25-150-560A7 below as new section B5; <i>modification</i>
4VAC25-150-680	N/A	Current section title is "Plats"	After "Plats" , insert "Core Holes" in title; <i>clarification</i>
4VAC25-150-680 A.5.	N/A	5. Any inhabited building, highway, railroad, stream, surface mine or mine opening within 500 feet of the proposed corehole.	Insert "permitted" before "surface mine"; insert "permitted" before "mine opening"; <i>clarification</i>
4VAC25-150-690	N/A	Current section title is "Operation Plans"	After "Operation Plans", insert "Ground Disturbing Geophysical Activity and Core Holes"; <i>clarification</i>
4VAC25-150-700	N/A	Current section title is "Set Back Restrictions"	After "Set Back Restrictions", insert "For Core Holes"; <i>clarification</i>
4VAC25-150-711	N/A	Current section title is "Voids and lost circular zones"	Change title, "circular" to "circulation"; <i>accuracy</i>
4VAC25-150-711 A.1.	N/A	1. When a corehole is drilled through a void, the hole shall be drilled at least 30 feet below the void. The annular space shall be cemented from the base of the casing up to the void and to the surface from the top of the void; or it shall be cemented at least 50 feet into the next higher string or strings of casing that are cemented to the surface and be verified by a cement top log.	After "casing up to the void", add "every reasonable attempt shall be made to fill the annular space from the top of the void to the surface"; strike "and to the surface from the top of the void"; <i>clarification</i>
4VAC25-150-720	N/A	Current section title is "Applicability"	Strike "applicability" in title and insert "Gathering Pipelines"; <i>clarification</i>
4VAC25-150-730	N/A	Current title of section is "General Requirements" Section regulates gathering pipeline	After "General Requirements", insert "for Gathering Pipelines"; Total rewrite of section to expand regulation of gathering pipeline is needed; <i>modification</i>
4VAC25-150-740	N/A	Current section title is "Operations plans"	After "Operations plans", insert "for Gathering Pipelines"; <i>clarification</i>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
4VAC25-150-750	N/A	Current section title is "Inspections"	After "Inspections", insert "for Gathering Pipelines"; <i>clarification</i>

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

There are no other alternatives that would meet the requirement that Virginia’s regulations are clear, consistent, and necessary to protect the health, welfare, and safety of Virginia’s citizens. The alternative of not amending this chapter would have left unresolved inconsistency and uncertainty in the regulation for the agency’s customers.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to **Tabitha Hibbitts Peace, Policy Analyst, P.O. Drawer 900, Big Stone Gap, VA 24219, phone 276-523-8212, fax 276-523-8148, or Tabitha.Peace@dmme.virginia.gov**. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

In addition, the agency is seeking information on (1) the continued need for the regulation; (2) the complexity of the regulation; (3) the extent to the which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. }

A public hearing will be held and notice of the hearing may be found on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The Department of Mines, Minerals and Energy will use a participatory approach in the development of the proposal because the amendments proposed may need further examination beyond the scope and extent presented by the agency. DMME plans to utilize an ad hoc advisory committee for these reasons.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed regulatory actions will have no impact on the family or family stability.

Periodic review - Public comment

If this NOIRA is not the result of a periodic review of the regulation, please delete this entire section.

If this NOIRA is the result of a periodic review, please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and (2) indicate whether the regulation meets the criteria set out in Executive Order 36, e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

Commenter	Comment	Agency response

No public comment was received following the January 7, 2008 publication of the Notice of Periodic Review.

Periodic review - Discussion

If this NOIRA is not the result of a periodic review of the regulation, please delete this entire section.

If this NOIRA is the result of a periodic review or if the periodic review is to be performed in combination with the NOIRA, please include a discussion of the agency's consideration of: (1) the continued need for the rule; (2) the complexity of the regulation; (3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

The Department of Mines, Minerals and Energy contends there is a continued need for the Virginia Gas & Oil Regulation due to growing natural gas industry in the Commonwealth, and the need for regulation of this industry to protect the health, safety, and welfare of Virginia's citizens. The regulation does not overlap, duplicate, or conflict with any federal or state law or regulation. The regulation was evaluated by periodic review in 2001, and since that time, the industry has seen unprecedented growth.

DMME's position is that the regulation should be amended, consistent with the stated objectives of applicable law, and that the amendments will have a minimal economic impact on small businesses.